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Board of Vocational Nursing
and Psychiatric Technicians

EDMUND G. BROWN JR., Attorney General
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Attorneys for Complainant

BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke Probation
Against:

Case No. 6779

EDWARD C. MASSEY

P.O. Box 1556

Garden Grove, CA 92842

and

7171 SVL Box

Victorville, CA 92395-5109

Licensed Vocational Nurse No. VN 174421

Respondent.

PETITION TO REVOKE
PROBATION

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs.
2. On or about October 19, 1995, the Board issued Licensed Vocational Nurse Number VN 174421 to Edward C. Massey (Respondent). The license will expire on February 28, 2009, unless renewed.

Prior Discipline

3. Effective February 1, 2007, pursuant to the Stipulated Settlement and Disciplinary Order in Accusation No. 6779, the Board revoked Respondent's vocational nurse license. However, the revocation was stayed and Respondent was placed on probation for a period of three years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

STATUTORY PROVISIONS

4. Business and Professions Code ("Code") section 2875 provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with Code section 2875) of the Vocational Nursing Practice Act.

5. Code section 118, subdivision (b), states:

The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

6. Grounds exist for revoking the probation and reimposing revocation of Vocational Nurse License Number VN 174421. Condition 12 of the Stipulated Settlement and Disciplinary Order, Case No. 6779, states, in pertinent part:

12. Violation of Probation.

If Respondent violates the conditions of his probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline, revocation, of the Respondent's license. If during the period of probation, an Accusation or Petition to Revoke Probation has been filed against the Respondent's license or the Attorney General's Office has been requested to prepare an Accusation or Petition to Revoke Probation against the Respondent's license, the probationary period shall automatically be extended and shall not expire until the Accusation or Petition has been acted upon by the Board.

7. Respondent has violated the Disciplinary Order, as set forth in the following paragraphs:

1 **FIRST CAUSE TO REVOKE PROBATION**

2 (Failure to Submit Identification)

3 8. At all times after the effective date of Respondent's probation, Condition 1
4 stated:

5 1. **Obey All Laws.**

6 Respondent shall obey all federal, state and local laws, including all
7 statutes and regulations governing the license. Respondent shall submit, in
8 writing, a full and detailed account of any and all violations of the law to the
9 Board within five (5) days of occurrence. To ensure compliance with this term,
10 respondent shall submit two (2) completed fingerprint cards and the applicable
11 fingerprint processing fees to the Board within thirty (30) days of the effective
12 date of the decision, unless the Board determines that fingerprint cards were
13 already submitted by Respondent as part of his licensure application process
14 effective July 1, 1996. Respondent shall also submit a recent 2" x 2" photograph
15 of himself within thirty (30) days of the effective date of the decision.

12 9. Respondent's probation is subject to revocation because he failed to
13 comply with Probation Condition 1, referenced above. The facts and circumstances regarding
14 this violation are as follows:

- 15 a. Respondent failed to provide the Board with proof of fingerprinting.
16 b. Respondent failed to provide the Board with a recent 2" x 2" photograph
17 of himself.

18 **SECOND CAUSE TO REVOKE PROBATION**

19 (Failure to Submit Reports; Failure to Comply with Probation Program)

20 10. At all times after the effective date of Respondent's probation, Condition 2
21 stated:

22 2. **Compliance With Probation Program and Quarterly Report
23 Requirements.**

24 Respondent shall fully comply with terms and conditions of the probation
25 established by the Board and shall cooperate with the representatives of the Board
26 in its monitoring and investigation of the Respondent's compliance with the
27 Probation Program.

26 Respondent shall submit quarterly reports, under penalty of perjury, in a
27 form required by the Board. The reports shall certify and document compliance
28 with all the conditions of probation.

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1 11. Respondent's probation is subject to revocation because he failed to
2 comply with Probation Condition 2, referenced above. The facts and circumstances regarding
3 this violation are as follows:

4 a. Respondent failed to provide the Board with Quarterly Written Reports for
5 the periods of April 2007 through June 2007, July 2007 through September 2007, October 2007
6 through December 2007, and January 2008 through March 2008.

7 b. Respondent failed to timely provide the Board with his Quarterly Written
8 Report for the period January through March 2007. The report, which was due April 7, 2007,
9 was not submitted until April 12, 2007.

10 c. Respondent failed to comply with the terms and conditions of probation by
11 failing to comply with Probation Condition No. 1, as more fully set forth in paragraph 9,
12 subparagraphs a and b above; Probation Condition No. 2, as more fully set forth in paragraph 11,
13 subparagraphs a and b above; Probation Condition No. 3, as more fully set forth below in
14 paragraph 13, subparagraphs a and b; Probation Condition No. 6, as more fully set forth below
15 in paragraph 15, subparagraphs a and b; Probation Condition No. 7, as more fully set forth below
16 in paragraph 17; and Probation Condition No. 9, as more fully set forth below in paragraph 19,
17 subparagraphs a and b.

18 **THIRD CAUSE TO REVOKE PROBATION**

19 (Failure to Provide Notification of Change of Address or Telephone Number)

20 12. At all times after the effective date of Respondent's probation, Condition 3
21 stated:

22 **3. Notification of Address And Telephone Number Change(s).**

23 Respondent shall notify the Board, in writing, within five (5) days of a
24 change of residence or mailing address, of his new address and any change in his
work and/or home telephone numbers.

25 13. Respondent's probation is subject to revocation because he failed to
26 comply with Probation Condition 3, referenced above. The facts and circumstances regarding
27 this violation are as follows:

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- 1 a. Respondent failed to provide the Board with notice of his change of
2 address.
3 b. Respondent failed to provide the Board with notice of his change of phone
4 number.

5 **FOURTH CAUSE TO REVOKE PROBATION**

6 (Failure to Attend Probation Compliance Meetings)

7 14. At all times after the effective date of Respondent's probation, Condition 6
8 stated:

9 **6. Interviews/Meetings with Board Representative(s).**

10 Respondent, during the period of probation, shall appear in person at
11 interviews/meetings as directed by the Board, or its designated representatives.

12 15. Respondent's probation is subject to revocation because he failed to
13 comply with Probation Condition 6, referenced above. The facts and circumstances regarding
14 this violation are as follows:

15 a. On or about February 20, 2007, the Board mailed to Respondent a *Notice*
16 *of Mandatory Probation Meeting*, for an initial probation compliance meeting scheduled on
17 March 20, 2007. Respondent failed to submit a request to reschedule the meeting and failed to
18 attend the meeting.

19 b. On or about July 23, 2007, the Board mailed to Respondent notice of a
20 rescheduled initial probation compliance meeting on August 21, 2007. Respondent failed to
21 submit a request to reschedule the meeting and failed to attend the meeting.

22 **FIFTH CAUSE TO REVOKE PROBATION**

23 (Failure to Comply with Employment Requirements)

24 16. At all times after the effective date of Respondent's probation, Condition 7
25 stated, in pertinent part:

26 **7. Employment Requirements And Limitations.**

27 During probation, Respondent shall work in his licensed capacity in the
28 State of California. This practice shall consist of no less than six (6) continuous
months and of no less than twenty (20) hours per week.

1 17. Respondent's probation is subject to revocation because he failed to
2 comply with Probation Condition 7, referenced above, in that he failed to document that he
3 worked in his licensed capacity for a minimum of six continuous months at no less than twenty
4 hours per week.

5 **SIXTH CAUSE TO REVOKE PROBATION**

6 (Completion of Educational Courses)

7 18. At all times after the effective date of Respondent's probation, Condition 9
8 stated:

9 **9. Completion of Educational Course(s).**

10 Respondent, at his own expense, shall enroll and successfully complete a
11 course(s) substantially related to the violation(s) no later than the end of the first
12 year of probation; or Respondent shall be suspended from practice, until he has
13 enrolled in and has successfully completed the specified coursework.

14 The coursework shall be in addition to that required for license renewal.
15 The Board shall notify Respondent of the course content and number of contact
16 hours required. Within thirty (30) days of the Board's written notification of
17 assigned coursework, Respondent shall submit a written plan to comply with this
18 requirement. The Board shall approve such plan prior to enrollment in any course
19 of study.

20 Upon successful completion of the course, Respondent shall cause the
21 instructor to furnish proof to the Board within thirty (30) days of course
22 completion.

23 19. Respondent's probation is subject to revocation because he failed to
24 comply with Probation Condition 9, referenced above. The facts and circumstances regarding
25 this violation are as follows:

26 a. Respondent failed to provide the Board with a plan by August 17, 2007, to
27 complete courses in Law and Ethics, Geriatrics/Elder Care and Patient Boundaries, as set forth in
28 the Board's letter to Respondent dated July 17, 2007.

 b. Respondent failed to provide the Board with proof of course completion.

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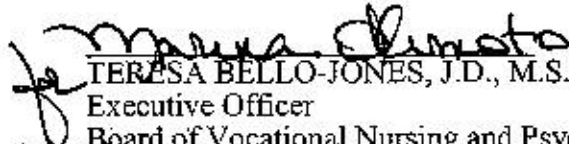
1 **PRAYER**

2 **WHEREFORE**, Complainant requests that a hearing be held on the matters
3 herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric
4 Technicians issue a decision:

5 1. Revoking the probation that was granted by the Board of Vocational
6 Nursing and Psychiatric Technicians in Case No. 6779 and imposing the disciplinary order that
7 was stayed thereby revoking Vocational Nurse License Number VN 174421, issued to
8 Edward C. Massey; and,

9 2. Taking such other and further action as deemed necessary and proper.

10 DATED: January 21, 2009.

11
12 
13 TERESA BELLO-JONES, J.D., M.S.N., R.N.
14 Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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Exhibit A

Decision and Order

Board of Vocational Nursing and Psychiatric Technicians Case No. 6779

BEFORE THE
BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

Case No. 6779

EDWARD MASSEY
PO Box 1556
Garden Grove, CA 92842

OAH No.: L2006030131

Vocational Nurse License No. VN 174421

Respondent.

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on February 1, 2007.

IT IS SO ORDERED this 2ND day of January, 2007.

Sister Marie de Porres Taylor

Sister Marie de Porres Taylor
President



1 BILL LOCKYER, Attorney General
of the State of California
2 DIANE DE KERVOR, State Bar No. 174721
Deputy Attorney General
3 California Department of Justice
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7 Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 EDWARD C. MASSEY
Post Office Box 1556
13 Garden Grove, CA 92842

14 Vocational Nurse No. VN 174421

15 Respondent.

Case No. 6779

OAH No. L-2006030131

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16
17 In the interest of a prompt and speedy settlement of this matter, consistent with the
18 public interest and the responsibility of the Board of Vocational Nursing and Psychiatric
19 Technicians the parties hereby agree to the following Stipulated Settlement and Disciplinary
20 Order which will be submitted to the Board for approval and adoption as the final disposition of
21 the Accusation.

22 **PARTIES**

23 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) is the Executive
24 Officer of the Board of Vocational Nursing and Psychiatric Technicians. She brought this action
25 solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General
26 of the State of California, by Diane de Kervor, Deputy Attorney General.

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1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in
3 Accusation No. 6779.

4 9. Respondent agrees that his Vocational Nurse License is subject to
5 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
6 Disciplinary Order below.

7 CONTINGENCY

8 10. The parties understand and agree that facsimile copies of this Stipulated
9 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
10 force and effect as the originals.

11 11. In consideration of the foregoing admissions and stipulations, the parties
12 agree that the Board may, without further notice or formal proceeding, issue and enter the
13 following Disciplinary Order:

14 DISCIPLINARY ORDER

15 IT IS HEREBY ORDERED that Vocational Nurse License No. VN 174421 issued
16 to Respondent Edward C. Massey is revoked. However, the revocation is stayed and Respondent
17 is placed on probation for three (3) years on the following terms and conditions.

18 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws,
19 including all statutes and regulations governing the license. Respondent shall submit, in writing,
20 a full and detailed account of any and all violations of the law to the Board within five (5) days of
21 occurrence. To ensure compliance with this term, respondent shall submit two (2) completed
22 fingerprint cards and the applicable fingerprint processing fees to the Board within thirty (30)
23 days of the effective date of the decision, unless the Board determines that fingerprint cards were
24 already submitted by Respondent as part of his licensure application process effective July 1,
25 1996. Respondent shall also submit a recent 2" x 2" photograph of himself within thirty (30)
26 days of the effective date of the decision.

27 2. **Compliance With Probation Program And Quarterly Report**
28 **Requirements.** Respondent shall fully comply with terms and conditions

1 of the probation established by the Board and shall cooperate with the representatives of the
2 Board in its monitoring and investigation of the Respondent's compliance with the Probation
3 Program.

4 Respondent shall submit quarterly reports, under penalty of perjury, in a form
5 required by the Board. The reports shall certify and document compliance with all the conditions
6 of probation.

7 **3. Notification of Address And Telephone Number Change(s).**

8 Respondent shall notify the Board, in writing, within five (5) days of a change of residence or
9 mailing address, of his new address and any change in his work and/or home telephone numbers.

10 **4. Notification of Residency or Practice Outside of State.** Respondent

11 shall notify the Board, in writing, within five (5) days, if he leaves California to reside or practice
12 in another state.

13 Respondent shall notify the Board, in writing, within five (5) days, upon his return
14 to California.

15 The period of probation shall not run during the time Respondent is residing or
16 practicing outside California.

17 **5. Notification to Employer(s).** When currently employed or applying for

18 employment in any capacity in any health care profession, Respondent shall notify his employer
19 of the probationary status of Respondent's license. This notification to the Respondent's current
20 health care employer shall occur no later than the effective date of the Decision. Respondent
21 shall notify any prospective health care employer of his probationary status with the Board prior
22 to accepting such employment. This notification shall be by providing the employer or
23 prospective employer with a copy of the Board's Accusation and Disciplinary Decision.

24 The Health Care Profession includes, but is not limited to: Licensed Vocational
25 Nurse, Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency
26 Medical Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary
27 technical health care positions.

28 ///

1 Respondent shall cause each health care employer to submit quarterly reports to
2 the Board. The reports shall be on a form provided by the Board, shall include a performance
3 evaluation and such other information as may be required by the Board.

4 Respondent shall notify the Board, in writing, within five (5) days of any change
5 in employment status. Respondent shall notify the Board, in writing, if he is terminated from any
6 nursing or health care related employment with a full explanation of the circumstances
7 surrounding the termination.

8 6. **Interviews/meetings With Board Representative(s).** Respondent,
9 during the period of probation, shall appear in person at interviews/meetings as directed by the
10 Board, or its designated representatives.

11 7. **Employment Requirements And Limitations.** During probation,
12 Respondent shall work in his licensed capacity in the State of California. This practice shall
13 consist of no less than six (6) continuous months and of no less than twenty (20) hours per week.

14 While on probation, Respondent shall not work for a nurses' registry or in any
15 private duty position, a temporary nurse placement agency, as a faculty member in an accredited
16 or approved school of nursing, or as an instructor in a Board approved continuing education
17 course except as approved, in writing, by the Board. Respondent shall work only on a regularly
18 assigned, identified and predetermined work site(s) and shall not work in a float capacity except
19 as approved, in writing, by the Board.

20 8. **Supervision Requirements.** Respondent shall obtain prior approval from
21 the Board, before commencing any employment, regarding the level of supervision provided to
22 Respondent while employed as a licensed vocational nurse or psychiatric technician.

23 Respondent shall not function as a charge nurse (i.e., work in any healthcare
24 setting as the person who oversees or directs licensed vocational nurses, psychiatric technicians,
25 certified nursing assistants or unlicensed assistive personnel) or supervising psychiatric
26 technician during the period of probation except as approved, in writing, by the Board.

27 9. **Completion of Educational Course(s).** Respondent, at his own expense,
28 shall enroll and successfully complete a course(s) substantially related to the violation(s) no later

1 than the end of the first year of probation; or Respondent shall be suspended from practice, until
2 he has enrolled in and has successfully completed the specified coursework.

3 The coursework shall be in addition to that required for license renewal. The
4 Board shall notify Respondent of the course content and number of contact hours required.
5 Within thirty (30) days of the Board's written notification of assigned coursework, Respondent
6 shall submit a written plan to comply with this requirement. The Board shall approve such plan
7 prior to enrollment in any course of study.

8 Upon successful completion of the course, Respondent shall cause the instructor
9 to furnish proof to the Board within thirty (30) days of course completion.

10 10. **Maintenance of Valid License.** Respondent shall, at all times while on
11 probation, maintain an active current license with the Board, including any period during which
12 suspension or probation is tolled.

13 Should respondent's license, by operation of law or otherwise, expire, upon
14 renewal or reinstatement respondent's license shall be subject to any and all terms of this
15 probation not previously satisfied.

16 11. **Cost Recovery Requirements.** Respondent shall pay to the Board
17 pursuant to Business and Professions Code Section 125.3 the costs of investigation and
18 enforcement in this matter in the amount of \$7,000.00. Respondent shall be permitted to pay
19 these costs in a payment plan approved by the Board, with the payments to be completed no later
20 than three months prior to the end of the probation term. Failure to complete payment of cost
21 recovery within this time frame shall constitute a violation of probation which may subject
22 Respondent's license to outright revocation.

23 The Board may conditionally renew or reinstate, for a maximum of one year, the
24 license of any respondent who demonstrates financial hardship. Respondent shall enter into a
25 formal agreement with the Board to reimburse the unpaid costs within that one year period.

26 Except as provided above, the Board shall not renew or reinstate the license of any
27 Respondent who has failed to pay all the costs as directed in a Decision.

28 ///

12. **Violation of Probation.** If Respondent violates the conditions of his probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline, revocation, of the Respondent's license. If during the period of probation, an accusation or petition to revoke has been filed against the Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board. Upon successful completion of probation, the Respondent's license will be fully restored.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Fredrick M. Ray. I understand the stipulation and the effect it will have on my Vocational Nurse license. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board.

DATED: 10/24/06

Edward C. Massey
EDWARD C. MASSEY
Respondent

I have read and fully discussed with Respondent Edward C. Massey the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 10/24/06

Fredrick M. Ray
FREDRICK M. RAY
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

DATED:

October 25, 2006

BILL LOCKYER, Attorney General
of the State of California

DIANE DE KERVOR
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SD2004800865
80088842.wpd

Exhibit A
Accusation No. 6779

1 BILL LOCKYER, Attorney General
of the State of California
2 RICHARD D. GARSKE, State Bar No. 50569
Supervising Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101
5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-2075
Facsimile: (619) 645-2061
7 Attorneys for Complainant

8
9
10 **BEFORE THE**
11 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 6779

15 **EDWARD C. MASSEY**
Post Office Box 1556
16 Garden Grove, California 92842

ACCUSATION

17 Vocational Nurse License No. VN 174421

18 Respondent.

19
20 Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") alleges:

21 **PARTIES**

22 1. Complainant brings this Accusation solely in her official capacity as the
23 Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department
24 of Consumer Affairs.

25 2. On or about October 19, 1995, the Board of Vocational Nursing and
26 Psychiatric Technicians issued Vocational Nurse License Number VN 174421 to EDWARD C.
27 MASSEY (Respondent). The license was in full force and effect at all times relevant to the
28 charges brought herein and will expire on February 28, 2007, unless renewed.

STATUTORY PROVISIONS

3. Section 2875 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board of Vocational Nursing and Psychiatric Technicians ("Board") may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

4. Section 2878 of the Code states, in part:

"The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, § 2840, et seq.)] for any of the following:

(a) Unprofessional conduct, . . .

(1) Incompetence, or gross negligence in carrying out usual nursing functions.

(i) The commission of any act involving dishonesty, when that action is related to the duties and functions of the licensee."

5. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

6. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

REGULATORY PROVISIONS

7. California Code of Regulations, title 16, section 2519, states:

As set forth in Section 2878 of the Code, gross negligence is deemed unprofessional conduct and is a ground for disciplinary action. As used in Section 2878 'gross negligence' means a substantial departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent licensed vocational nurse, and which has or could have resulted in harm to the consumer. An exercise of so slight a degree of care as to justify the belief that there was a conscious disregard or indifference for the health, safety, or welfare of the consumer shall be considered a substantial departure from the above standard of care.

///

1 FIRST CAUSE FOR DISCIPLINE

2 (Gross Negligence)

3 8. Respondent has subjected his vocational nurse license to disciplinary
4 action under Code section 2878, subdivision (a)(1) for unprofessional conduct, in that between
5 January 1999 and January 2000, while employed and residing with L.R., a 56-year old disabled
6 person with Multiple Sclerosis, Respondent committed the following acts constituting gross
7 negligence, within the meaning of California Code of Regulations, title 16, section 2519, as
8 follows:

9 a. Respondent provided live-in nursing care services without direct or
10 indirect supervision by a physician or registered nurse.

11 b. Respondent became employed at another nursing facility leaving
12 patient/client L.R. alone, for extended periods of time without means of assistance for doing
13 ordinary activities due to her health condition.

14 SECOND CAUSE FOR DISCIPLINE

15 (Dishonesty)

16 9. Respondent has subjected his vocational nurse license to disciplinary
17 action under Code section 2878, subdivision (j), in that he committed acts of dishonesty, in that
18 while residing with and employed by L.R., Respondent over paid his salary to himself and paid
19 his own bills from L.R.'s checking account in excess of \$41,000, without her knowledge or
20 permission.

21 THIRD CAUSE FOR DISCIPLINE

22 (Unprofessional Conduct)

23 10. Respondent has subjected his vocational nurse license to disciplinary
24 action under Code section 2878, subdivision (a), in that Respondent committed acts of
25 unprofessional conduct, as set forth in paragraphs 8 and 9, above.

26 OTHER MATTERS

27 11. In a separate action taken by the Department of Health Services, State of
28 California on April 12, 2001, Respondent's Home Health Aide Certification #93888 was

1 revoked, pursuant to Health and Safety Code section 1736.5, subdivision (c)(1)(a) for
2 unprofessional conduct, in that while employed as a vocational nurse providing private health
3 care services for L.R., a 56-year old disabled female with MS, the Department found Respondent
4 to be negligent in her care in that he isolated the client, misappropriated money from his client,
5 and neglected her care.

6 PRAYER

7 WHEREFORE, Complainant requests that a hearing be held on the matters herein
8 alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric
9 Technicians issue a decision:

- 10 1. Revoking or suspending Vocational Nurse License Number VN 174421
11 issued to EDWARD C. MASSEY;
- 12 2. Ordering EDWARD C. MASSEY to pay the Board of Vocational Nursing
13 and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this
14 case, pursuant to Business and Professions Code section 125.3;
- 15 3. Taking such other and further action as deemed necessary and proper.

16 DATED: April 14, 2005

17
18 

19 TERESA BELLO-JONES, J.D., M.S.N., R.N.
20 Executive Officer
21 Board of Vocational Nursing and Psychiatric Technicians
22 Department of Consumer Affairs
23 State of California
24 Complainant
25
26
27